

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

HECTOR A. RODRIGUEZ,	§	
Individually,	§	
	§	
<i>Plaintiff,</i>	§	
	§	
vs.	§	Civil Action No.: 3:11-cv-02229-O
	§	
HWC ENTERPRISES, INC. f/k/a	§	
PONY XPRESS PRINTING, INC.,	§	
PONY XPRESS PRINTING, LLC f/k/a	§	
PONY XPRESS, LLC f/k/a PXP	§	
ACQUISITION, LLC, ADAM	§	
WALTERSCHEID, Individually,	§	
JEFFREY A. HENDERSON, Individually,	§	
And BRUCE WILLIAM JOLESCH,	§	
Individually	§	
	§	
<i>Defendants</i>	§	

**DEFENDANTS' UNOPPOSED FIRST MOTION FOR CONTINUANCE**

Defendants, HWC Enterprises, Inc. f/k/a Pony Xpress Printing, Inc., Adam Walterscheid and Jeffrey A. Henderson (all three defendants named are referred to hereinafter, as the "Remaining Defendants"), file this Unopposed First Motion for Continuance, and respectfully asks the Court to continue this case and move the dates for the Trial and all other dates in the Scheduling Order (Document #20) in this lawsuit.

**FACTS**

1. Plaintiff filed its Complaint on August 29, 2011. ("Complaint").

2. Defendant filed an Answer on October 5, 2011.
3. Pursuant to the Scheduling Order filed on November 17, 2011, the pertinent deadlines are the following:
  - a. Mediation - April 30, 2012
  - b. Discovery - May 31, 2012
  - c. Pretrial Disclosures and Objections – September 18, 2012
  - d. Settlement Conference – October 14, 2012

### **DISCUSSION**

1. Defendant is asking for a continuance for the following reasons.
  - a. Defendant's counsel, Richard A. Cuccia, II, has communicated, or attempted to communicate with each of the four attorneys that have represented or represent the Plaintiff, Hector Rodriguez, regarding this lawsuit filed against the Remaining Defendants. However, in 2012, it has been difficult to engage counsel for the Plaintiff in meaningful settlement discussions, due to certain attorneys, such as Rod Blake Khavari and Bernard J Grant, leaving the firm of Modjarrad and Abusaad Law Firm.
  - b. Recently, Mr. Cuccia and Mr. Eric Chartan, a new attorney for Plaintiff, have had meaningful settlement discussions that cause Mr. Cuccia to believe that with a little more time, the Plaintiff and Remaining Defendants have a good possibility of resolving this lawsuit.
  - c. Reaching a resolution would prevent both parties from engaging in costly discovery and pre-trial motions and hearings, and allow the Court to focus on other matters, besides this lawsuit, on the Court's docket.

2. While the Plaintiff and the Remaining Defendants believe they are near a settlement, the Remaining Defendants seek relief from the Court's scheduling order, by filing this motion for continuance.
3. Plaintiff maintains no objection to continuing this case, and extending all deadlines.
4. Based on the mutual interest in resolving this matter between parties, and not engaging in costly discovery and pre-trial events, the Remaining Defendants respectfully move the Court to continue the trial date from November 2012 to June 2013, which would also include a continuance of the other dates listed on the Scheduling Order.
5. The Remaining Defendants move this Court to grant this first request for a continuance, with the intention and belief that a continuance shall allow the parties adequate time to engage in either a quick resolution of this matter, or proceed with discovery, and all pre-trial events, if there is no resolution.

#### **CONCLUSION**

4. So, the Remaining Defendants respectfully move the Court to continue this lawsuit. More specifically, the Remaining Defendants respectfully request the various deadlines in the Scheduling Order are moved to a date no less than 6 months from its current date in the Scheduling Order.

RESPECTFULLY SUBMITTED:

**Cuccia Legal, PLLC**

/s/ Richard A. Cuccia, II

Richard A. Cuccia, II

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ATTORNEY FOR DEFENDANTS HWC  
ENTERPRISES, INC. f/k/a  
PONY XPRESS PRINTING, INC.,  
ADAM WALTERSCHEID, Individually,  
JEFFREY A. HENDERSON, Individually

**CERTIFICATE OF SERVICE**

This is to certify that on the 14<sup>th</sup> day of September, 2012, after 5:00 p.m., I electronically filed the forgoing document with the U. S. District Court for the Northern District of Texas, Dallas Division, using the court's electronic case filing system. The electronic filing system sent a "Notice of Electronic Filing" to all attorneys of record who have consented to accept the Notice of Electronic Filing as service of this document by electronic means. For those attorneys who have not consented to accept the Notice of Electronic Filing as service of this document by electronic means, I forwarded a true and correct copy of the above and foregoing document via first class mail, in accordance with the Federal Rules of Civil Procedure.

/s/ Richard A. Cuccia, II  
Richard A. Cuccia, II ,  
Attorney for HWC Enterprises, Inc. f/k/a  
Pony Xpress Printing, Inc., Adam Walterscheid  
and Jeffrey A. Henderson

**CERTIFICATE OF CONFERENCE**

This is to certify that on or about the 30<sup>th</sup> day of August, 2012, Mr. Eric Chartan, Hector Rodriguez's attorney, discussed Defendant's Unopposed First Motion for Continuance. Counsel indicated he did not oppose the motion therefore it is presented for determination by the Court.

/s/ Richard A. Cuccia, II  
Richard A. Cuccia, II